

Licensing/Gambling Hearing

To: Councillors Galvin, Hook and Norman
Date: Thursday, 17 June 2021
Time: 10.00 am
Venue: Remote Meeting

AGENDA

1. Chair

To elect a Member to act as Chair of the meeting.

2. Introductions

3. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

4. Exclusion of Press and Public

To consider excluding the Press and Public during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

5. Minutes (pages 7-26)

To approve the minutes of Licensing Hearings held on 29 April 2021 and 24 May 2021.

6. The Determination of an Application by Hardy Ltd. for a Section 18(3) (a) Premises Licence in respect of 7 Castlegate, York, YO1 9RN (CYC-068419) (pages 27-83)

Democratic Services officer:

Name: Fiona Young

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For more information about any of the following, please contact the Democratic Services officer responsible for servicing this meeting:

- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats.

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR REMOTE LICENSING HEARINGS

Introduction

1. During the coronavirus pandemic emergency period it will be necessary for licensing hearings to be dealt with remotely. This procedure sets out how City of York Council will deal with such hearings. This procedure must be considered in conjunction with the Council's Delivery of Remote Meetings document which sets out how all meetings, including licensing hearings will be held in York.
2. The procedure adopted at a licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.
3. The Council's hearings procedure is based on regulations made by the Secretary of State under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee has a duty to view all evidence presented before them impartially. The Sub-Committee is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.
4. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The Hearing will be recorded and the recording placed on the Council's website.

Preparation for the Remote Licensing Hearing

5. The Sub-Committee will use the video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee. This video-conferencing platform will also be used for decision making in private. All paperwork relevant to the hearing will be published online on the Council's

website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.

6. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.
7. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.
8. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.
9. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

The Remote Licensing Hearing

10. The Applicant is permitted to speak at the remote hearing (see below). Ward Councillors, responsible Authorities and Representatives are only permitted to speak if they have made written submissions during the consultation period. Any party to a hearing may be assisted or represented by any person, legally or otherwise.
11. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.

12. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.
13. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by Members.
14. **The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives.** Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length.
15. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.
16. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

ORDER OF PROCEEDINGS AT THE REMOTE HEARING

Chair's introduction and opening comments

17. The Chair will introduce the Sub-Committee Members and Officers and welcome the Applicant and Representors (or their representatives), and establish the identity of all who will be taking part.

18. The Chair will outline the procedure to be followed.

19. The Chair will proceed with the order of business on the agenda.

Licensing Manager

20. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application. The Chair will invite all present, one by one, to ask the Licensing Officer questions if they wish, to clarify any points raised in the report.

The Application

21. The Applicant (and/or their representative) will address the Sub-Committee and present information in support of the application and may call any witnesses to support the application, one witness at a time [*maximum 15 minutes*].

22. The Chair will invite the Representors to ask questions of the Applicant in the following order [maximum 5 minutes each party]:

- Police;
- Other Responsible Authorities;
- Ward Councillors;
- Public representation
- Members of the Sub-Committee;
- The Sub-Committee's legal adviser.

The Representations

23. The Chair will invite the Representors and/or their representative in the following order to address the Members of the Sub-Committee and call any witnesses in support of their representation [*maximum 15 minutes each party*]:

- Police
- Other Responsible Authorities
- Ward Councillors
- Public representation
- Members of the Sub-Committee

24. The Chair will invite the Applicant and each other party to ask questions of each Representor and/or their witnesses after each presentation [maximum 5 minutes per Representor]. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.
25. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

Summaries

26. The Chair will invite the Representors (or their representative) in the following order to summarise their case [*maximum 5 minutes each party*]
 - Police
 - Other Responsible Authorities
 - Ward Councillors
 - Public representation
27. The Chair will invite the Applicant (or their representative) to summarise their case [*maximum 5 minutes*].
28. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.

Determination

29. The Sub-Committee will withdraw to consider their decision with the Legal Adviser and the Democratic Services Officer in a separate private on line meeting. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.
30. If the decision is made following the conclusion of the hearing, the Sub-Committee will return to the public online meeting to announce an outline of the decision to those present. This decision will then be communicated in full in writing, including reasons for the decision, to the Applicant and all Representors (whether in attendance or not)

usually within 5 working days of the hearing. There can be no further questions or statements.

31. If the Sub-Committee does not make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democratic Services Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representatives within 5 working days of the decision being made.

The notification will include information about the rights of appeal against the determination made.

City of York Council

Committee Minutes

Meeting	Licensing/Gambling Hearing
Date	29 April 2021
Present	Councillors Norman (Chair) Mason (Substitute), and Pearson (Substitute)

1. Chair

Resolved: That Cllr Norman be elected to act as Chair of the meeting.

2. Introductions**3. Declarations of Interest**

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, and any prejudicial or disclosable pecuniary interests, which they might have in the business on the agenda. No interests were declared.

4. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

5. Minutes

Resolved: That the minutes of the Licensing Hearings held on 22 February 2021 and 1 March 2021 be approved

as a correct record in each case, to be signed by the Chair at a later date.

6. The Determination of a Section 18(3)(a) Application by Mr Kheng Chooi Koay for a premises licence in respect of 16 Barbican Road, York, YO10 5AA (CYC-068154)

Members considered application by Mr Kheng Chooi Koay for a premises licence in respect of 16 Barbican Road, York, YO10 5AA (CYC-068154).

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to this Hearing:

1. The Prevention of Public Nuisance

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objectives, including:

1. The application form.
2. The papers before it including the following additional information:
 - Agreed conditions with Public Protection
 - Dispersal Policy
3. The Licensing Manager's report and her comments at the Hearing.

The Licensing Manager outlined the report and annexes in respect of the application. She advised that the premises was not located within the cumulative impact assessment area (CIA) and confirmed that the consultation process had been carried out correctly. She explained that Public Protection had withdrawn their representation as conditions had been agreed and that during the consultation period, the police had withdrawn their representation following mediated conditions. There had been 13 representations from other interested parties.

In response to questions from Members, the Licensing Manager explained that:

- The premises was not in the CIA.
- The closest licensed premises were on Lowther Street and Laurence Street.
- The premises licence applied for was for 16 Barbican Road.
- There were complaints on the evening referred to in representor 13 correspondence.

4. The representations made by Duncan Craig, Counsel, on behalf of the Applicant (henceforward referred to as the Applicant) and the representations made directly by the Applicant. Mr Craig explained that the premises had some documented history and the licence had been subject to revocation in June 2020 and that public nuisance had formed part of that decision. He noted that the Applicant had other premises in the city and there had been no issues associated with those. He noted that it was important that local people felt safe and were involved. He highlighted that North Yorkshire Police and Public Protection were responsible authorities and following consultation had withdrawn representation and would have applied stringent checks to the application. He advised that any less hours would make the business unviable and he had taken mitigation measures agreed by the responsible authorities. He outlined the agreed conditions and added that a noise management plan would be agreed with Public Protection. He added that in relation to Public Protection concern about windows, all windows would remain closed.

Mr Craig explained that two days prior to the hearing, there had been a zoom conference with the Applicant regarding a Dispersal Policy, which had been circulated to all parties. He advised that Public Protection had welcomed the Dispersal Policy and the addition of the noise management plan in the conditions. He noted that the Applicant would abide by the conditions and there were mitigations to allay concerns. He noted the Applicant was vested in the local community and city and the application was well considered with the additional conditions and offer of a Dispersal Policy. He added that the Applicant was sincere in his intention to people who lived near to the premises.

In answer to questions from representors, Mr Craig explained that the Applicant was the licensee for Mr Happy and Hon King Hotspot in York, adding that there would be an entertainment element to the premises applied for.

In response to questions from Members, Mr Craig and the Applicant noted that:

- Coaches would drop off customers then drive away. He invited Members to condition this.
- There could be a condition for picking up glass and litter at the end of the night.
- The noise management plan condition covered the music levels.
- It was possible to provide the premises contact details in a leaflet to residents every six months.
- The operating hours and hours for the sale of alcohol were what the Applicant felt was necessary and the responsible authorities were content with them.
- Food would stop being served at 11.30pm.
- The premises would operate broadly the same as the previous premises, with the same layout and format.
- Regarding the selling of knives, this was an error and it was confirmed that the premises would not sell knives.
- The smoking area was the outside area labelled as the dining hall.
- There would be no staff living at the premises.
- The coach drop off would be near the Staycity aparthotel.
- The Applicant had no knowledge about the allegation of a party at the premises at Christmas.

5. The representations of Paul Goodwin in writing and at the hearing on behalf of himself and others. He explained that before the pandemic, coaches were stopping outside the car park and making a noise, and his car had been damaged by a coach parking there. He noted that the area was already quite noisy at 3-4am with university students, and with people parking in the car park below and having conversations. He noted his concern about the noise level

in the smoking area and added that there was already antisocial behaviour in the area, which would bring more sleeplessness.

In response to a question from one of David Sylvester, one of the representors, Mr Craig noted that the licence holder would need to comply with conditions concerning coaches parking in designated areas.

In response to questions from Members, Mr Goodwin explained that:

- Regarding the additional conditions being added to address his concerns, he remained concerned about noise from the smoking area. He added that nothing in the local area was open after midnight, and even hours an hour less would create noise in the neighbourhood.
- If the windows were shut there should not be an excessive amount of noise. The noise was from people coming and going.
- Although he would expect more noise on a Friday, Saturday and Sunday, there was still noise during the week.
- Concerning whether there had been a marked change in noise levels since the previous premises licence had been revoked, it was hard to tell whether this was as a result of the pandemic. He had more concern about the new scenario.
- There was already a problem with noise prior to COVID.

6. The representations of David Sylvester in writing and at the hearing on behalf of himself and a number of students at the Bible College. He explained that noise was amped up by next door and urinating, smoking and talking would escalate until 3.30am in the morning which meant they did not think much of the community. He noted that there had been a problem with parking in front of the flats. He added that it was a viable business when it had not been open until 3.30am. He added that expecting people to abide by Dispersal Policy rules at 3.30am was optimistic.

In response to questions from Members, Mr Sylvester explained that:

- Regarding whether he felt that mitigation measures would address his concerns, that anything could be put on paper but in reality people would be living with a lot more noise in a residential area.
 - Urination was from customers because they had been coming out of the restaurant waiting for taxis, talking and sitting around.
 - There was noise from people outside the restaurant.
 - In regard to a contact at the premises, he had been in and spoken to the manager and having to do this 20 times was a frustration.
 - Residents of the Bible College lived in the flats.
7. The representations of Louise Pattison in writing and at the hearing. She explained that the last licence was granted to drink and eat so people were not just going there to get drunk. She also explained that the path around the smoking area was tight and she had to go on the road with her dog, which was a blind bend and she expressed concern that there may be a fatality. In response to questions from Members, she explained that:
- Regarding the additional conditions being added, there could a condition to make sure that that there was no car or coach parking in residents car parks.
 - The pavement outside the premises was 4ft wide. Mr Sylvester added that he thought it was 6-7ft.
 - The smoking area could be at the back of the premises

At that point in the meeting a map of the premises area was brought on screen and the Chair suggested a number of possible areas for the location of the smoking area. The Applicant confirmed the smoking area could be at the back of the premises and Mr Craig made an undertaking that smoking could be part of the noise management plan.

8. The Representors and the Applicant were each given the opportunity to sum up.

Mr Craig explained that the premises would not operate as a vertical drinking establishment and noted that the conditions were enforceable. He noted that the previous licence was revoked due to poor management and the Applicant was a responsible operator. Asked by the Chair whether a condition could be added stating that the

premises could not be used for residential purposes Mr Craig suggested that a condition could be added to state that no one lives on site. The Sub-Committee Legal Advisor clarified that this was not possible as the conditions had to address licensable activities. This was confirmed by the Licensing Manager. It was suggested that a condition could be added stating that the karaoke rooms must remain as karaoke rooms and were not habitable.

The Chair asked Mr Craig whether an earlier closing time during the week would be acceptable. Mr Walker, the Solicitor for the Applicant stated that it was a 7 day a week premises. Members asked if there were door staff previously. Louise Pattison explained that there was a condition but there hadn't been any door staff. Mr Craig advised that the Applicant had signed a contract for door staff that week and it was noted that this was included in the Dispersal Policy. In response to a question from the Chair he noted that Applicant had accepted the need for a proper smoking area and didn't want to upset the neighbours.

In response to a question from the Chair, the Licensing Manager confirmed that the proposed conditions were enforceable as they addressed licensable activities. She added that the licensed premises on Laurence Street were open until 01.00 or 02.00am.

In relation to the Dispersal Policy, Mr Craig was asked and noted that it had been submitted in isolation and he had spoken to Public Protection 45 minutes before the hearing. He added that Public Protection had welcomed the noise management plan and that it had not been seen by the police. The Democracy Officer was asked and confirmed that there had been no feedback regarding the Dispersal Policy. She also confirmed that the Public Protection Officer had confirmed that he had seen the Dispersal Policy.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to

them to take under Section 18(3) (a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

- Option 1: Grant the licence in the terms applied for. This option was rejected.
- Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was approved.
- Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly. This option was rejected.
- Option 4: Reject the application. This option was rejected.

Resolved: That Option 2 be approved and the licence be granted with the following conditions and modified/additional conditions added to the licence:

1. Coaches attending the premises must not park, idle, pick-up, or drop-off on either Barbican Road or Wellington Street at any time.
2. Coach noise is to be assessed via the noise management plan.
3. A leaflet containing the premises duty manager(s) contact details and the City of York Council's noise patrol contact details must be provided to all properties on Barbican Road, Wellington Street, Lawrence Court and Barbican Mews prior to the premises operating, and each October thereafter.
4. The smoking area for the premises is to be assessed and agreed by the Council's Public Protection team.
5. The Operating Schedule, the conditions agreed with North Yorkshire Police and the conditions agreed with Public Protection, contained in the published Agenda, Agenda Supplement 1 and Agenda Supplement 2, shall be included in the licence, unless contradictory to the above conditions.

Reasons:

- i. The Sub-Committee must promote the licensing objectives and must have regard to the Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.
- ii. The Sub-Committee noted that the premises is not located within the Council's cumulative impact assessment area, that the Applicant had reached an agreement with both North Yorkshire Police and Public Protection prior to the hearing, both of whom had withdrawn their representations.
- iii. The Sub-Committee considered very carefully the representations of the Applicant, and the witness evidence. The Sub-Committee gave great weight to the fact that the Applicant was not linked to the previous licensee at the premises, had held premises licences in the city for a number of years without any issues, and agreements had been reached with the Police and Public Protection prior to the hearing. The Sub-Committee were reassured by the Applicant that they would continue their engagement and dialogue and with their neighbours and Public Protection. The Sub-Committee noted the Applicant's following assurances, that the premises windows would remain closed, the agreed dispersal policy, that no one would be resident on the premises, that the premises would operate in a similar manner to the previous business, an area had been proposed away from the premises for coach drop off and pick up, a recent contract had been signed regards the provision of door staff at the premises, and the noise management plan would be agreed with Public Protection. The Sub-Committee noted the Applicant's undertaking that the smoking area would form part of the noise management plan, and their agreements to amend the dispersal policy regards litter "to be picked up", coach noise to be included in the noise management plan, and would provide a leaflet to the local neighbours with contact details.
- iv. The Sub-Committee considered very carefully the representations of Mr Goodwin, Mr Sylvester, and Ms Pattison, the witness evidence, and the proximity of each to the premises. The Sub-Committee had careful regard to

their individual and shared concerns, in particular noise from open windows at the premises, coaches stopping at or near to the premises, noise and anti-social behaviour from customers leaving the premises, the previous lack of door staff, how the premises could be contacted by neighbouring homes / businesses, and the location of the smoking area for their customers.

- v. The Sub-Committee noted the written representations from those persons who did not attend the hearing or instruct another to speak on their behalf, (Agenda Annex 7 and 8).
- vi. The Sub-Committee concluded that if the application were to be granted in the terms applied for there would be the likelihood of the residents being subjected to public nuisance in terms of noise nuisance from and / or linked to the licensable activity in the premises. The Sub-Committee were satisfied that the information contained in the Agenda, the two Agenda Supplements, and with the additional conditions set out above that the premises would operate without undermining the licensing objectives.
- vii. The Sub-Committee therefore agreed to grant the licence with the modified, additional and mandatory conditions referred to above which were appropriate and proportionate in the circumstances to promote the licensing objectives.

Cllr G Norman, Chair

[The meeting started at 5.30 pm and finished at 7.53 pm].

Meeting	Licensing/Gambling Hearing
Date	24 May 2021
Present	Councillors Mason, Pearson and Wann

62. Chair

Resolved: That Cllr Mason be elected to act as Chair of the meeting.

63. Introductions

The Chair introduced those present at the hearing: the members of the Sub-Committee, the Applicant (Josh McNaboe, Area Manager), the Applicant's solicitor, the Representors, the Senior Licensing Officer presenting the report, the Legal Adviser, the Senior Legal Officer shadowing the Legal Adviser, and the Democracy officer.

64. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, and any prejudicial or disclosable pecuniary interests, which they might have in the business on the agenda. No interests were declared.

65. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

66. Minutes

Resolved: That the minutes of the Licensing Hearing held on 8 April 2021 be approved as a correct record, to be signed by the Chair at a later date.

67. The Determination of a Section 18(3)(a) Application by Co-operative Group Food Ltd for a premises licence in respect of Co-op Hallmark House, Ground Floor, Chocolate Works, Campleshon Road, York, YO23 1PX (CYC-068304)

Members considered an application by Co-operative Group Food Limited for a premises licence in respect of C-op Hallmark House, Ground Floor, Chocolate Works, Campleshon Road, York YO23 1PX.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to this Hearing:

1. The Prevention of Crime and Disorder
2. The Prevention of Public Nuisance
3. The Protection of Children from Harm

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objectives, including:

1. The application form.
2. The papers before it, including the additional papers published in the Agenda Supplement and the written representations.
3. The Licensing Manager's report, and the comments of the Senior Licensing Officer at the Hearing.

The Senior Licensing Officer outlined the report and the annexes, noting that the premises were not in the cumulative impact area and confirming that the Applicant had carried out the consultation process correctly. She highlighted the conditions agreed by the Applicant with North Yorkshire Police and noted that the Police had subsequently withdrawn their objections. She drew attention to the 26 representations received from local

residents, as set out in Annex 4. Finally, she advised the Sub Committee of the options open to them in determining the application

In response to questions from Members of the Sub-Committee, the Senior Licensing Officer confirmed that:

- The Licensing team were not aware of any restriction or scheme preventing shops in the area from selling alcohol before 7pm on race days. *(Mr Cole commented at this point that there had been such a restriction in place in the late 1990s; the Senior Licensing Officer said that this may have been a voluntary scheme).*
- Conditions requiring door staff on race days would not normally be applied to licences for off-sales only.
- Off-sales licences varied, but the timings for the sale of alcohol would usually match the shop's opening hours.

4. The representations made by Richard Arnot, Solicitor, on behalf of the Co-operative Food Group Limited (the Applicant).

Mr Arnot stated that the Co-operative was the largest retailer in the country, with 2,500 stores and 8.2 million members. The unit at the Chocolate Works already had retail planning permission and, if all went well, would open next January. It would be a convenience store, and the ability to sell alcohol was part of that role. Off-sales would be ancillary, making up 15% of total sales. The Co-op had been around for 150 years and knew what was expected of it in relation to alcohol sales. Policies and procedures were in place, and each region had a risk manager to ensure these were applied. Unlike other national stores, the Co-op was very risk averse. When a new colleague started work, they would undergo an induction process and take an exam, ensuring that they understood the licensing requirements. The company operated a 'buddy' system (an idea taken from diving), and a 'lockdown' procedure to ensure a new staff member could not sell alcohol until they had gone through the induction and exam process. All staff underwent refresher training twice a year and would go back into 'lockdown' if they did not satisfy the requirements. CCTV was in place in all stores, and the till process included a reminder of the

requirements before each alcohol purchase. There was one way in and one way out of the premises, as indicated on the plan. In terms of the local community, the Co-op had 15 stores in York and each had a community pioneer. The company took its responsibilities very seriously; being a Members' organisation, it was important not to get things wrong.

Mr Arnot went on to state that the Applicant intended to trade from 7:00 am to 10:00 pm and was happy to amend the operating hours on the application accordingly. He noted that the Section 182 guidance, as reproduced in paragraph 8.12 of the council's policy, stated that shops should normally be allowed to sell alcohol during the period they were trading. He referred to the conditions agreed with the police as set out in the agenda papers and noted that there were now no objections to the application from responsible authorities. He said the onus was on the objectors to convince the Sub-Committee that there was evidence to show the Applicant would not support the four Licensing Objectives, and pointed out that there was a robust review and prosecution process in place in respect of licences. Referring to the Representors' objections, he said that both the police and the Licensing Authority had confirmed that no scheme existed to prevent the sale of alcohol before 7pm in the area on race days. He had checked the licences issued for other premises, and there was no such condition on those either. It would therefore be unfair to impose a 7pm 'curfew' in this case. Commenting on the representations numbered 1, 2, 4, 9 and 23 in the agenda papers, he stated that there was no reason why the shop would attract 'undesirable elements' or gatherings of people, that 'need' was not a relevant consideration in respect of opening hours, and that people did not visit Co-op stores to get drunk; it was also illegal to sell alcohol to people who were already drunk. He also noted that several Representors had said they did not object in principle to the sale of alcohol at the premises.

Finally, Mr Arnott called on Josh McNaboe, the Co-operative's Area Manager for York, to comment in respect of race days.

Mr McNaboe stated that, as a community retailer, the Co-op wanted to work with the community and come to a solution in the event of any problems. He had the authority to make local decisions and had support available to manage the situation on race days. He would look into the use of security guards should the need arise and would work with the local community, the police and the Racecourse and follow the required procedures. The Co-op's work in the community also involved supporting other local retailers.

In response to questions from Members of the Sub-Committee:-

Mr McNaboe confirmed that:

- Staff training was provided mainly online, with two sessions per year; there was also in-store training and a buddy system. A member of the management team was always in attendance.
- In relation to recent test purchases, there had been an issue with underage sales at one store in York; appropriate action had been taken via training and re-issuing the policy.
- Every store had a designated premises supervisor and there were weekly checks on all test purchases.
- The safety and security of shop staff was very important; if security staff were needed on particular days they would be supplied by an external company, Mitre.

Mr Arnot confirmed that:

- The Applicant was used to operating close to places that attracted large crowds, for example Wembley Stadium, and routinely carried out risk assessments.
- He considered it unfair to impose a security condition that did not apply to other licence holders in the area; the Applicant could be left to carry out its own risk assessment and act in accordance with that.

5. The representations made by Gary Cole, a local resident and member of the Chocolate Works Residents' Association.

Mr Cole stated that the Chocolate Works was a unique development comprising a mixture of owners and renters, some of whom also attended the races. He had lived locally for many years and was aware of the bad reputation of the Racecourse in York, which was due to the time that racegoers spent in the drinks tents and the unsavoury atmosphere resulting from people drinking too much. He did not object to the sale of alcohol by the Co-op, but if this could be restricted on race days it would give local residents some comfort. Although conditions had been agreed by the police in respect of CCTV, and incident log and a panic button, these measures would be too late once an offence had been committed. The seating area in the development already attracted problems from racegoers and drinkers. Any support for the residents by way of a condition or an agreement would be helpful. The problems related mainly to race days, but other events did take place at the racecourse. He concluded by stating that he looked forward to seeing what the community pioneer could do; he was looking to the Co-op to help residents enjoy the new shop as a facility for the local area.

In response to questions from Members of the Sub-Committee, Mr Cole confirmed that:

- He was concerned that the premises would be a target for drunken racegoers looking to purchase more drinks on their return from the racecourse.
- He did not seek a restriction on the sale of alcohol to after 7pm every day, just on race days.
- He thought that security guards would be needed at the premises on race days.
- The Residents' Association were also looking into having security at the development entrance on race days; there was currently no security provision at the development.

6. The representations made by Ben Sheriff, a local resident.

Mr Sheriff stated that his main concern related to people seeking to buy alcohol after attending the races, particularly as the premises were on one of the main routes from the racecourse to town, and would be the nearest shop to the racecourse. He was also concerned for residents along the route, believing that the sale of

alcohol would exacerbate problems with littering and nuisance. He calculated that, if alcohol made up 15% of total sales, this could amount to alcohol sales of £400 on each race day, potentially causing a great deal of nuisance. Active measures and security guards could help, but the question was how the Co-op would challenge and refuse the sale of alcohol to customers who were drunk. In conclusion, he welcomed the prospect of the shop, but had concerns about its hours of opening and alcohol sales.

In response to questions from Members of the Sub-Committee, Mr Sheriff confirmed that:

- He did not think that changing the opening time from 6:00 am to 7:00 am would make much difference; at most supermarkets, the sale of alcohol began at 10:00 am.
- He felt security staff were needed to help shop staff manage drunken behaviour at busy times when there were a lot of people loitering around the area.

The Representors and the Applicant's solicitor were each then given the opportunity to sum up.

The Representors both confirmed that they had nothing to add to the comments they had already made.

Mr Arnot summed up on behalf of the Applicant. He stated that the Representors' concerns all seemed to relate to race days, which the Applicant already managed well. The police were not asking for further conditions. The Applicant always carried out risk assessments and would take any action needed as a result of these, including on a race day. He commended the application to the Sub-Committee, stating that his views were the result of much experience. For example, a similar application in Peterborough had attracted many objections but all the local residents now shopped there. He felt sure that residents in this case would also soon come to rely on the Co-op and have a good relationship with the store. The Applicant would do all it could to help, applying the law properly and not selling alcohol to drunks – in 12 years, he had never had to give advice to the Co-op in that respect.

Members of the Sub-Committee sought clarification from the Applicant's solicitor as to why he did not want to accept a

condition requiring door staff on race days. Mr Arnot replied that it would be difficult to apply and could result in having to employ door staff on days when none were required. Instead, staff should be trusted to apply the company's own risk assessment process and take any necessary action resulting from that.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) (a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

- Option 1: Grant the licence in the terms applied for. This option was **rejected**.
 - Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was **approved**.
 - Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly. This option was **rejected**.
 - Option 4: Refuse to specify a person on the licence as premises supervisor. This option was **rejected**.
 - Option 5: Reject the application. This option was **rejected**.
- Resolved: That Option 2 be approved and the application be granted, with the following modified/additional conditions added to the licence:

(a) In relation to race days the premises licence holder will risk assess the need for SIA personnel in conjunction with North Yorkshire Police and ensure sufficient such personnel are on duty to promote the crime and disorder licensing objective.

(b) The premises will take part in and comply with any crime reduction initiatives in relation to race

days, when requested to do so by a responsible authority.

The Operating Schedule and the conditions agreed with North Yorkshire Police contained in the published Agenda shall be included in the licence, unless contradictory to the above conditions.

- Reasons:
- (i) The Sub-Committee must promote the licensing objectives and must have regard to the Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.
 - (ii) In relation to the proposed sale of alcohol, the Sub-Committee noted the Secretary of State Guidance and the Council's Licensing Policy, which advised that supermarkets should normally be allowed to sell alcohol during their trading hours (which the Applicant had amended to 7am – 10pm).
 - (iii) The Sub-Committee noted the Applicant's evidence that the premises would be a convenience store with ancillary alcohol sales which would equate to only about 15% of the store's turnover. They also noted that nationally, the Co-op is a well-run company with a comprehensive training programme for staff and that it has systems and policies in place to control the sale of alcohol.
 - (iv) The Sub-Committee noted that this store is not within the Special Policy Area and that the Police had withdrawn their objection, upon agreement of conditions. They noted that no representations were made by any of the other Responsible Authorities.
 - (v) They noted the objections raised by a number of residents and that the representations mainly referred to the licensing objectives of crime and disorder and public nuisance. Particular concerns were raised as to the impact of the premises on local residents on race days with regard to these licensing objectives.

(vi) The Sub-Committee were of the view that whilst the operating schedule and proposed additional conditions were sufficiently robust to promote the licensing objectives on non-race days, there was a real threat that the premises would encourage additional problems of crime and disorder and anti-social behaviour in the area on race days, given that the premises would be the closest off-sale shop to the racecourse. It considered that the likelihood of such issues occurring on race days was sufficient to warrant the imposition of additional conditions for race days requiring the premises to risk assess the need for SIA personnel in conjunction with the Police and to participate in any crime reduction initiatives that might be implemented.

(vii) The Sub-Committee therefore agreed to grant the licence with the additional and mandatory conditions referred to above which were appropriate and proportionate in the circumstances to promote the licensing objectives.

Cllr A Mason, Chair

[The meeting started at 5.30 pm and finished at 7.10 pm].



Licensing Act 2003 Sub Committee

14 June 2021

Report from the Director – Environment, Transport & Planning

Section 18(3) (a) Application for a premises licence for 7 Castlegate, York, YO1 9RN

Summary

1. This report seeks Members determination of an application for the grant of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC - 68419
3. Name of applicant: Hardey Ltd
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application:

The proposal is to allow for the provision of the following activities at a 7 Castlegate as follows:

Proposed Activity	Timings
Recorded Music – indoors	1000 to 0100 everyday New year's eve 1000 to 0200 British summer time – an extra hour when clocks go forward
Late night refreshment – indoors	2300 to 0100 New year's eve 2300 to 0200 British summer time – an extra hour when clocks go forward
Supply of alcohol – on & off the premises	1100 to 0100 New year's eve 1000 to 0200 British summer time – an extra hour when clocks go forward

	On race days or other locally or nationally significant events start time may commence at 1000
Opening hours	1100 to 0100 New year's eve 1000 to 0200 British summer time – an extra hour when clocks go forward On race days or other locally or nationally significant events start time may commence at 1000

Background

6. A copy of the application can be found at **Annex 1**, including a plan(s) of the premises.
7. The premises is described in the application as ground floor café/bar specialising in natural and organic wines, beers and spirits alongside a food menu. The site also comprises of two external areas to the front and rear.
8. An overview of the circumstances in which entertainment activities are not licensable can be found at **Annex 2**.

Promotion of Licensing Objectives

9. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

10. General

Annual staff training will be conducted enforcing the premises licence regulations.

Yearly records of this training will be kept on site for each employee.

11. The Prevention of Crime and Disorder

- Operational CCTV will be installed.
- DPS will assess the need for doorstaff
- DPS will build links with the local community/watch dog.

- All off sales will be in sealed containers
- All staff will discourage irresponsible drinking and behaviour.

12. **Public Safety**

- Incident book will be kept on site and up to date.
- Operational CCTV
- All exit signs will be illuminated
- Fire safety regulations will be in place
- Staff will be first aid trained

13. **The Prevention of Public Nuisance**

- DPS will close all doors and windows at 2300 to reduce noise
- Prominent signs will be placed at exits requesting guests to respect local residents and leave quietly

14. **The Protection of Children from Harm**

- The premises will operate a Challenge 25 policy, the only accepted proof of age being that stated in Licensing Regulations

Special Policy Consideration

15. This premises is located within the cumulative impact assessment area which was approved by full council on 21 March 2019. The assessment can be found at **Annex 3**. Section 9 of the Statement of Licensing Policy which deals with Cumulative Impact can be found at **Annex 4**.

Consultation

16. Consultation was carried out by the applicant in accordance with s13, and s17 (5) of the Act and Regulation 42, Parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.
17. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

18. North Yorkshire Police made representation on the prevention of crime and disorder, however they have mediated with the applicant who has agreed to amend their operating schedule, operating times, plans and have added several conditions. The agreed conditions can be found at **Annex 5**. Therefore North Yorkshire Police have withdrawn their representation.
19. Further to mediation taking place with North Yorkshire Police the applicant has now amended the times applied for as follows:
 - Opening hours 1100 to 2300 Monday to Sundays and 1100 to 0100 Friday and Sat. The sale of alcohol will cease 30 minutes prior to these timings.
 - They have also agreed to amend the plan to remove the external areas from being part of the licensed area – this does not however prevent customers being served in those areas or consuming food and drink including alcohol.
20. The City of York Council's Public Protection Team have made representation on the prevention of public nuisance, however they have mediated with the applicant who has agreed to amend their operating schedule and have added extra conditions. The agreed conditions can be found at **Annex 6**. Therefore Public Protection have withdrawn their representation.

Summary of Representations made by Other Parties

21. There have been 6 relevant representations received from other persons. The list of representors is attached at **Annex 7**.
22. The representations are predominantly based on the grounds of the prevention of crime and disorder and the prevention of public nuisance objectives. They state that this objective(s) will be undermined if the application is granted.
23. A copy of all the representations are attached at **Annex 8**.
24. A map showing the general area around the venue is attached at **Annex 9**.
25. The mandatory conditions that will be attached to this licence if granted (if they apply) can be found at **Annex 10**. The Legislation and Policy considerations can be found at **Annex 11**.

Options

26. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
27. Option 1: Grant the licence in the terms applied for.
28. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
29. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
30. Option 4: Refuse to specify a person on the licence as premises supervisor.
31. Option 5: Reject the application.

Analysis

32. The following could be the result of any decision made this Sub Committee:-
33. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
34. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
35. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
36. Option 4: This decision could be appealed at Magistrates Court by the applicant.
37. Option 5: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

38. The Licensing Act 2003 has four objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
39. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when

determining licensing applications the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

Implications

40.

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

41. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
42. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

Recommendations

43. Members determine the application.

Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:

Lesley Cooke
Licensing Manager

Chief Officer Responsible for the report:

James Gilchrist
Director Environment, Transport & Planning

Tel No. 01904 551515

**Report
Approved**

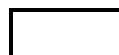


Date
20/05/2021

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Guildhall



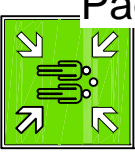
For further information please contact the author of the report

Background Papers:

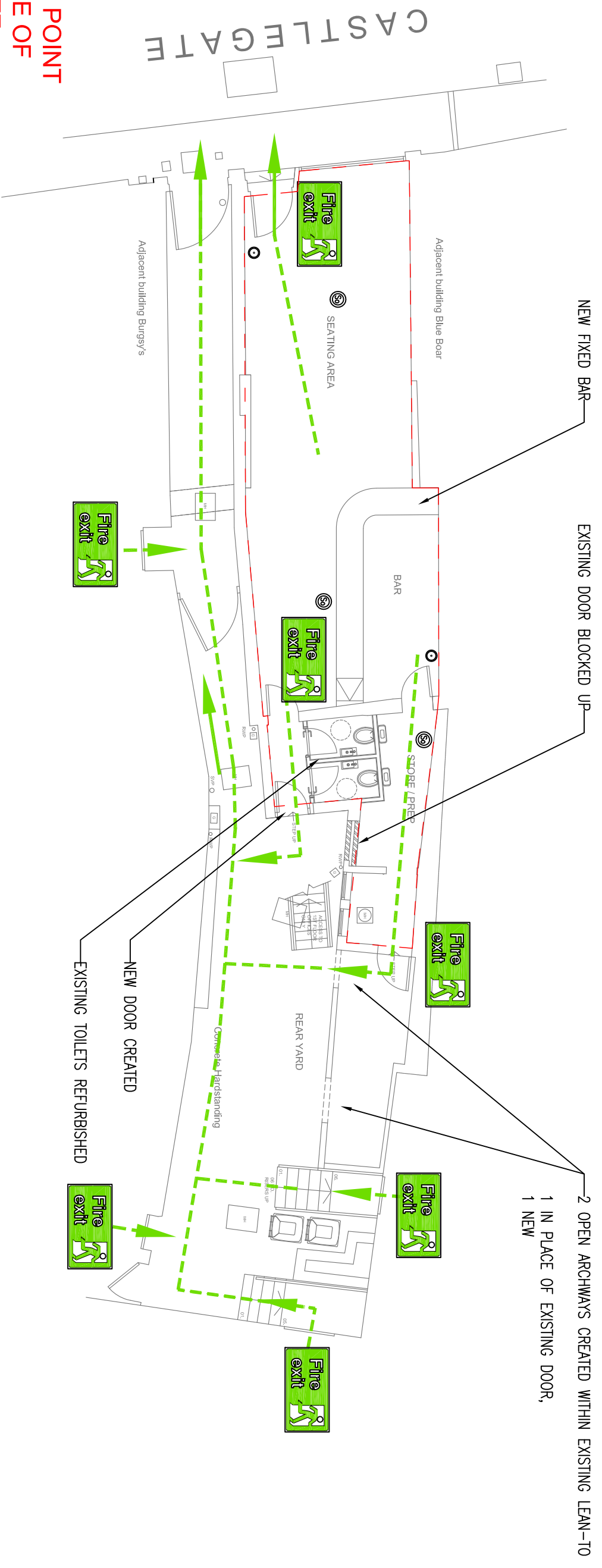
- Annex 1** - Application form & plans
- Annex 2** - Overview of Circumstances in which Entertainment Activities are not Licensable
- Annex 3** - Cumulative Impact
- Annex 4** - Licensing Policy Annex
- Annex 5** - Conditions agreed with North Yorkshire Police
- Annex 6** - Conditions agreed with Public Protection
- Annex 7** - List of representors (**CONFIDENTIAL**)
- Annex 8** - Copy of representations from other persons
- Annex 9** - Map of area
- Annex 10** - Mandatory Conditions
- Annex 11** - Legislation and Policy Considerations

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ASSEMBLY POINT
OTHER SIDE OF
CASTLEGATE



- 2 OPEN ARCHWAYS CREATED WITHIN EXISTING LEAN-TO
- 1 IN PLACE OF EXISTING DOOR,
- 1 NEW



01 Site Location Plan
11250@AA

- FIRE ALARM BREAK GLASS UNIT
- SMOKE DETECTOR AND SOUNDER
- LICENCE APPLICATION BOUNDARY

REV	DATE	DETAILS OF AMENDMENTS	DRAWN

REV	DATE	BOUNDARY UPDATE	DRM
C	26.04.21	BOUNDARY UPDATE	DRM
B	15.04.21	MINOR UPDATES	DRM
A	06.04.21	FIRST ISSUE	DRM

REV	DATE	DETAILS OF AMENDMENTS	REVISIONS

CLIENT	JOB TITLE	SCALE	DATE
	7 CASTLEGATE	1:100 @ A3	06.04.2021

DRAWINGS TITLE	DRAWING NO.	REVISION
GROUND FLOOR GENERAL ARRANGEMENT	1240-001	C

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Home Office – Guidance Issued Under Section 182 of the Licensing Act 2003

Section 16 Regulated Entertainment

Overview of circumstances in which entertainment activities are not licensable

16.5 There are a number of exemptions that mean that a licence (or other authorisation¹⁸) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:

- activities which involve participation as acts of worship in a religious context;
- activities in places of public religious worship;
- education – teaching students to perform music or to dance;
- the demonstration of a product – for example, a guitar – in a music shop;
- the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing (or similar)
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors).

16.6 As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the

audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.

- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace²⁶ that does not have a licence, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;

- any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
- any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
- any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

16.7 The deregulatory changes mean that, for example, an indoor sporting event that takes place between 07.00 and 23.30 on a particular day is licensable in respect of activities taking place between 07.00-08.00 and 23.00-23.30. Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500. If organisers are uncertain as to audience sizes or if audience migration is likely, it might be easier and more flexible to secure an appropriate authorisation. Examples of where a Temporary Event Notice (TEN) could still be required include if the activity is the playing of recorded music or the exhibition of a film that requires an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.

16.8 Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.

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Cumulative Impact

1. Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Act. Cumulative impact assessments were introduced at Section 5A of the Act by the Police and Crime Act 2017, with effect from 6 April 2018. This provides provision for licensing authorities to publish a document, cumulative impact assessment, stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
2. Relevant authorisations means:
 - premises licence
 - club premises certificate
3. Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
4. The Council has included a Cumulative Impact Policy within its Statement of Licensing Policy since 2005, in relation to an area within York city centre. Due to the changes within the city centre, mainly the locations where licensed premises are predominately operating, this area has increased over the years.

Cumulative Impact Assessment

5. As required by the Act the Council has reviewed the cumulative impact area following the receipt of evidence provided by North Yorkshire Police and the Councils Public Protection Service (noise). The Council has published its first cumulative impact assessment (assessment) in relation to an area that has been identified in York city centre. The assessment is available on the Council website or from the Licensing Section. The assessment will be reviewed at least every three years as required by the Act. A map showing the area can be found in the assessment.
6. As required by the Act the Council has formally consulted on the assessment.
7. By publishing the assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the assessment when determining or revising this Statement of Licensing Policy. The assessment does not change the fundamental way that a licensing decision is made, each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of

Police and all parties who made a relevant representation, with the reasons for departing from the Policy.

8. Where no relevant representations are received an application within the cumulative impact area will be granted in terms consistent with the operating schedule.
9. Applications for new premises licences or variations for premises situated within the cumulative impact area that are likely to add to the cumulative impact already experienced will normally be refused if relevant representations are received. The applicant must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
10. The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.
11. The Statement of Licensing Policy and Cumulative Impact Assessment were approved by the City of York on the 21 March 2019.

Cumulative Impact Area

12. The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
 - prevention of crime and disorder
 - prevention of public nuisance
13. North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:
 - drink led premises – pubs, bars, nightclubs and restaurants/cafes;
 - entertainment premises – pubs, bars and nightclubs providing entertainment, especially late at night into the early hours of the morning;
 - late night refreshment premises – takeaways; and
 - off licence premises – supermarkets and convenience stores.
14. A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have lead to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.

9. Cumulative Impact

- 9.1 Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Act. Cumulative impact assessments were introduced at Section 5A of the Act by the Police and Crime Act 2017, with effect from 6 April 2018. This provides provision for licensing authorities to publish a document, cumulative impact assessment, stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
- 9.2 Relevant authorisations means:
- premises licence
 - club premises certificate
- 9.3 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 9.4 The Council has included a Cumulative Impact Policy within its Statement of Licensing Policy since 2005, in relation to an area within York city centre. Due to the changes within the city centre, mainly the locations where licensed premises are predominately operating, this area has increased over the years.

Cumulative Impact Assessment

- 9.5 As required by the Act the Council has reviewed the cumulative impact area following the receipt of evidence provided by North Yorkshire Police and the Councils Public Protection Service (noise). The Council has published its first cumulative impact assessment (assessment) in relation to an area that has been identified in York city centre. The assessment is available on the Council website or from the Licensing Section. The assessment will be reviewed at least every three years as required by the Act. A map showing the area can be found in the assessment.
- 9.6 As required by the Act the Council has formally consulted on the assessment.
- 9.7 By publishing the assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the assessment when determining or revising this Statement of Licensing Policy. The assessment does not change the fundamental way that a licensing decision is made, each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council

determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of Police and all parties who made a relevant representation, with the reasons for departing from the Policy.

- 9.8 Where no relevant representations are received an application within the cumulative impact area will be granted in terms consistent with the operating schedule.
- 9.9 Applications for new premises licences or variations for premises situated within the cumulative impact area that are likely to add to the cumulative impact already experienced will normally be refused if relevant representations are received. The applicant must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
- 9.10 The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.

Cumulative Impact Area

- 9.11 The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
- prevention of crime and disorder
 - prevention of public nuisance
- 9.12 North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:
- drink led premises – pubs, bars, nightclubs and restaurants/cafes;
 - entertainment premises – pubs, bars and nightclubs providing entertainment, especially late at night into the early hours of the morning;
 - late night refreshment premises – takeaways; and
 - off licence premises – supermarkets and convenience stores.
- 9.13 A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have lead to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.

Annex 5

Conditions agreed with North Yorkshire Police

*Removal of 'red line' on plans for both outside areas. (Licensable area indoors only)

*Opening hours to be 1100-2300hrs weekdays and Sundays and 1100-0100hrs Friday and Sat.

1. The venue shall operate wholly as a cafe style operation where the majority of customers shall be waited on by waiters or waitresses (save for those seated at the bar). For the purpose of clarity cafe style shall be defined as a small restaurant serving light refreshments and meals. Alcohol shall be ancillary to the sale of food.

2. A digital colour CCTV system will be installed to cover the premises and will provide good coverage of all areas (including outside areas) to where public have access to consume alcohol.

- It will be maintained, working and recording at all times when the premises are open.
- The recordings should be of good evidential quality to be produced in Court or other such hearing.
- Copies of the recordings will be kept available for any Responsible Authority for 28 days. Subject to Data Protection requirements.
- Copies of the recordings shall be made available to any Responsible Authority within 48 hrs upon request. Subject to Data Protection requirements.
- Copies of the recordings will display the correct time and date of the recording.

It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority. Subject to Data Protection requirements.

3. Documented staff training will be given regarding staff's obligation under the Licensing Act in respect of the:-

- Retail sale of alcohol
- Age verification policy
- Conditions attached to the Premises Licence
- Permitted Licensable activities
- The Licensing objectives and
- The Opening Times of the venue.

Such records shall be kept for a minimum of one year and will be made available immediately upon request from any Responsible Authority.

4. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals of alcohol sales to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises.

Such records shall be kept for at least one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry]: They will be made available immediately upon a reasonable request from any responsible authority.

5. There shall be a minimum of 44 table covers available at all times on the ground floor to negate the need for vertical drinking.

6. The outside seating areas shall be closed at 2200hrs each day.

7. It is the responsibility of the Designated Premises Supervisor / Manager on duty for risk assessing the need for SIA Door Supervisors at the premises. Special consideration should be given to the need for Door staff on Fridays/Saturdays or any Sunday leading into a bank holiday Monday and any days where race meetings are held at York Racecourse.

8. The sale of alcohol shall cease 30 minutes before close of business on any given day to allow for 'drinking up' time.

9. The licence holder will operate a Challenge 25 Age Verification Policy at the premises.

10. The only acceptable proof of age identification shall be a current Passport, photo card Driving Licence, Military ID card, or identification carrying the PASS logo (until other effective identification technology e.g thumb print or pupil recognition, is adopted by the Premises Licence Holder).

11. No drinks or drinking glasses shall be taken out of the licensed premises or (licensed area) onto the pavement or highway save for the pavement café or rear outside seating area.

12. All off sales of alcohol shall be in sealed containers.

13. Clear and legible notices shall be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and area quietly.

Conditions agreed with Public Protection

- 1.** After 21:00 hours the rear courtyard shall be used only for smokers, and customers shall not be permitted to take drinks outside into this area after this time.
- 2.** A documented noise management plan shall be submitted to and approved by the City of York Council within two months of the licence being granted, once approved it shall be implemented. The noise management plan will also include a procedure for investigating noise complaints.
- 3.** Doors and windows at the premises are to remain closed after 23:00 hours, save for access and egress.

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From: :o.uk>
Sent: 30 April 2021 13:12
To: licensing@york.gov.uk
Subject: licencing application 7 Castlegate York

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good afternoon

I would like to express my wholehearted support for the application for an Alcohol Licence at the premises of 7 Castlegate.

Having read the application the requested alcohol licensing times are broadly within the hours of other licences on the street so there would be no issue with the premises being open any later than other licensed premises on the street.

I firmly believe the addition of a licenced premises at number 7 would be in keeping with what is becoming a rejuvenated area being increasingly used by locals. The area has been poorly represented by businesses in the past and is now becoming a thriving street with well run bars, pub and restaurants catering to clientele that wish to avoid the chain pubs and bars and as such are not suitable venues for the Stag and Hen crowds that often blight our city. I cant see how the opening of a new premises next to already existing licensed premises would cause any more nuisance than is experienced by having a night club and late night bars in close proximity to us.

Kind regards

I strongly believe that the Application is counter the City's Licencing Objectives and Vision for Tourism and should be refused.

Yours faithfully

From: E
Sent: 09 May 2021 18:03
To: licensing@york.gov.uk
Cc: [REDACTED]
Subject: Re. Application for the Grant of a Premises Licence by Hardey Ltd at 7 Castlegate, York YO1 9RN (Representations from [REDACTED] Castlegate, York YO1 9RN
Attachments:

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sirs,

We the residents at [REDACTED] Castlegate, York YO1 9RN write to make a formal objection to the application for an alcohol licence that has been made by Hardey Ltd who are the commercial tenants at 7 Castlegate, York YO1 9RN.

The specific permissions sought are:

- The proposed hours of serving alcoholic beverages are Monday - Sunday 11.00am - 1.00am;
- an extra hour of trading is sought when the clocks go forward; this is sheer effrontery. All business persons by convention just work with the clocks going forwards or backwards: there is no detriment to any trading establishment as the clocks going forward usually takes effect at 2.00am on the relevant day;
- permission is sought to begin trading earlier at 10.00am on race days;
- permission is sought to trade until 2.00am on new year's eve;
- The commercial tenant also wishes to establish a beer garden to the rear of 7 Castlegate.
- There will be recorded music during the hours of trading;
- It is worth noting that the passage that leads from Castlegate itself to the area which constitutes the proposed beer garden is an easement (that is a right of way) for all leaseholders at nos 9 and 11 Castlegate. The easement was not granted for trading purposes;

The Licensing department of the City of York Council has a duty under s.17 of the Crime and Disorder Act 1998 to consider the impact of its decisions on local residents and other interested parties and it is with this statutory provision in mind that our objections are made.

Castlegate itself is occupied by a mixture of residents and commercial tenants.

Residents affected

1. At no 11 Castlegate specifically, there are four separate households and the commercial tenant at the front of the house is the Castle tea rooms;

at no 4 there are two residents;

at Gloucester House next door to us along Castlegate there are 6 separate households;

Diagonally opposite us at nos 12 -16 Castlegate there are three separate houses.

This amounts to 12 *known households*, I refer you to the additional statistics below which give fuller information about the residents in the vicinity of 7 Castlegate.

2. Other residents who will be affected by the application of Hardey Ltd, are:

the residents above the Cocoa Works ie Castle Chambers, where their front entrance is actually along Clifford Street. There are 22 flats within this residential complex some of which face on to Castlegate;

3. The residents above ground level at the Coppergate Centre (their flats overlook the rear of the buildings along Castlegate).

Objections

Anti social behaviour

4. We object to Hardey Ltd being granted a licence until 1.00am because of the noise and disruption in what is a partly residential neighbourhood.

Crime rates

For the year January 2019 - December 2019 according to official Crime statistics there were 1913 recorded offences of anti-social behaviour in inner York. A huge majority of such offences would have been in respect of drunken and disorderly behaviour or vandalism;

The statistics for the period March 2020 - March 2021 fell to 1,423: however this is easily accounted for by the fact during this period, the country had no less than three lockdowns because of Covid 19. Therefore the anti social behaviour statistics for the calendar year 2019 are a far more accurate reflection of recorded anti-social behaviour, not to mention the anti-social behaviour where the culprits were simply cautioned.

5. It is perfectly foreseeable that the customers of Hardey Ltd will cause disruption and aggravation in the small hours of the morning along Castlegate. We already have problems with the clientele of some establishments thoughtlessly dropping cigarette butts along Castlegate and leaving other litter. We want no increase in this.

6. There are existing problems with people urinating along Friargate and even worse being physically sick in the Street. Again, granting a licence to Hardey Ltd for the trading hours they propose can only exacerbate this already unwanted problem.

Noise

7. Noise is clearly going to be an issue if any establishment is granted a licence until 1.00am. There are residents along Castlegate (myself included who are working people): we do not want additional noise during the working week beyond 11.00pm and certainly not up to and after 1.00am either during the week or at weekends. In addition Hardey Ltd propose to play recorded music which is an additional source of noise.

The creation of outside drinking areas both to the front and rear of the property will substantially increase noise disturbance to local residents, which, were this to continue through to 1.00am every night, would be totally unacceptable.

Security and listed consent issues

8. There is a security risk to the 2 residents at 9 Castlegate as at the rear of their property is a door which leads into the area which Hardey Ltd propose be used as their beer garden.

9. In addition, it is pertinent to point out that 7 Castlegate is a listed building: Source ID 1259332; English Heritage ID 436006. There are outbuildings at the rear of 7 Castlegate which are also listed. Therefore the permission of the local planning authority will be needed to demolish these if Hardey Ltd wish to use this space as a beer garden.

Existing trading practice

The Blue Boar at 5 Castlegate which is a public house serving amongst other things Craft Beer trades from 11.00am - 11.00pm on weekdays; and from 11.00am - 12 midnight on Fridays and Saturdays. We residents accept that we have neighbours who are commercial tenants, but the trading hours of the Blue Boar are the maximum that we residents would wish to be permitted. It would be a massively undesirable precedent for Hardey Ltd to be granted an alcohol licence until 1.00am.

Residential buildings within the vicinity of 7 Castlegate:

Here is the list of residential addresses within the vicinity of 7 Castlegate;

Flat 1,2,3,4 Gaultres Chambers, 4 Coppergate, York, YO1 9NR

3a Castlegate, York, YO1 9RN

Flat above Blue Boar, 5 Castlegate, York, YO1 9RN

(Flat at back of Three Tons/11's garden) 12 Coppergate, York,

9A,9B Castlegate, York, YO1 9RN

Flats 1-22, Castle Chambers, 5 Clifford Street, YO1 9RG (floor plan enclosed)

11B,11C,11D,11E Castlegate, York, YO1 9RN

(Rear of 11's garden) Flat 1,2,3, 19 Coppergate Walk, York, YO1 9NT

1,2,3,4,5,6 Gloucester House, Castlegate, York, YO1 9RN

Friargate House, 12, Castlegate, YO1 9RL

14 Castlegate, York, YO1 9RP

16 Castlegate, York, YO1 9RP

1-10 St Georges House, 23 Castlegate, York, YO1 9RN

Flat, Castlegate House, Castlegate, York, YO1 9RP

Household's directly opposite on Friargate

14 Friargate, York, YO1 9RL

16 Friargate, York, YO1 9RL

Household's directly behind on Coppergate Walk

Flat 3-5 Coppergate Walk

Flat 1,2,3,4,5, 12 Coppergate Walk, York, YO1 9NT

Kindly consider our objection and by all means communicate with me on the outcome so that I can keep my neighbours informed.

Your faithfully,

From:
Sent: 17 May 2021 20:40
To: licensing@york.gov.uk
Cc:
Subject: Re: Re. Application for the grant of a Premises Licence by Hardey Ltd at 7 Castlegate, York YO1 9RN

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good evening

Thank you for your quick response, our objections are Anti social behaviour

1. The noise and disruption to our partly residential street, can not take another bar/restaurant as we already have problems, since the decking and seating outside, it has made a big impact on the noise. We also find it awkward to walk along the street now.
2. We already have people urinating and been sick in Friargate, and in our building entrance, it will be so much more worse if the opening hours are longer than what they are now.
3. There also been fights and rowdy behaviour, where the Police have had to come.
4. There is no cctv down Castlegate so it is quite intimidating already when we come home late at night.
5. Some of us work and have to be up early, so we do not need additional noise disturbing us in the early hours of the morning.

We feel that the trading hours of the Blue Boar, Rustique, The pairings and the Tapas Bar are the maximum which we wish to be permitted.

Yours faithfully

PS please copy your reply to

Sent from my iPad

> On 17 May 2021, at 08:53, "licensing@york.gov.uk" <licensing@york.gov.uk> wrote:

>

> Good Morning,

>

> We have received your email. I appreciate that you have stated that you agree with the points other have made but more would be required in order for you to make a representation. Your representation must be relevant to one or more of the licensing objectives; therefore it is important you link any representation specifically to these objectives. The licensing objectives are:

> * The prevention of crime and disorder

> * Public safety

> * The prevention of public nuisance

> * The protection of children from harm.

>

> I have attached guidance above.

>

> Regards

>

> Licensing

>

> Licensing

> t: 01904 552422 | e: Licensing@york.gov.uk

>

> City of York Council | Public Protection Place Directorate | Eco

> Depot, Hazel Court, James Street | York YO10 3DS www.york.gov.uk |

> facebook.com/cityofyork | @CityofYork

>

> We take your privacy seriously. For details of the information we collect, how we use it and who we may share it with please see the Public Protection Privacy Policy on our website, www.york.gov.uk.

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> Please be advised that following the latest Government advice regarding the outbreak of Coronavirus (COVID-19), the Licensing Section will be working from home where possible. Emails and calls will still be responded to but it may take a little longer than usual. We apologise in advance for any inconvenience this may cause. It would help us greatly if you could communicate by email wherever possible.

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From:
Sent: 18 May 2021 16:35
To: licensing@york.gov.uk
Cc:
Subject: Application for a Premises Licence by Hardey Ltd at 7 Castlegate, York
(Representations from astlegate, York)
Attachments: licensing objection.pdf

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sirs,

We the residents of Castlegate York YO1 9RN write to raise formal objections to the alcohol and late night recorded music licence made by Hardey Ltd for a Premises Licence at 7 Castlegate York YO1 9RN.

Please find the attached PDF (12 pages). If for any reason you can not open/read the file, please let us know.

Kind regards.

Objections to Premises Licence application of 7 Castlegate (Hardey Ltd)By Residents at Castlegatev
c14th May 2021Summary

Castlegate is largely a residential street and there are 70 residences in the vicinity of 7 Castlegate. The proposed venue is very small and heavily reliant on outdoor areas both at rear and on the front pavement to provide covers.

With regard to the proposed on-street licenced area, the new 'pavement bars' have developed in the exceptional circumstances of the coronavirus pandemic and have resulted in an increase of observable crime and disorder as well as creating an evidenced nuisance to neighbours. The negative effects of on-street drinking is starting to be apparent as Castlegate has become saturated with on-street drinking. We would urge the Licensing Authority to exercise greater caution in licensing new venues operating on the street to balance their density due to emerging problems of the on-street Castlegate venues in close proximity.

With regard to the proposed rear beer garden, this has been restricted in a neighbouring venue because of real and documented problems that arose. The applicant's hastiness to start demolishing parts of their listed building unlawfully to create a rear outdoor area shows that the existence of a beer garden is paramount to create enough covers. The heavy reliance on this outdoor area would create many problems (highlighted within) including excessive noise to the 8 flanking flats and dozens of residential neighbours in the wider vicinity. Even if the applicants circumvent the unlawful demolition of their listed outbuildings, the rear essential service yard/road necessary for motor vehicles and multiple fire escapes would be highly unsafe to drinkers and its use as a beer garden untenable.

The café/restaurant venue is seeking a late night licence to 1am/2am for both alcohol and recorded musical entertainment. Given the small size of the venue and heavy reliance on outdoor seating, a late night licence for the venue would be unconscionable because of the detrimental effect on neighbours. The venue can have no air conditioning (from a previous LBC application) and is reliant on opening doors and windows for ventilation.

Even without granting a licence for the outdoor areas, the Bar internally is so small that it is even proposed not to have a kitchen. This raises several food safety and hygiene concerns (public safety) and shows that the applicant does not in fact wish to operate a legitimate

café/restaurant but in fact a late night recorded entertainment venue without planning permission for such.

We strongly urge the Licensing Authority to refuse a premises licence for 7 Castlegate in its entirety.

False Statements and unlawful demolition of parts of Listed Building

The premises licence application is a full application, rather than being for a provisional statement. However, the premises and beer garden, as drawn on the submitted plan by the owners, does not exist and cannot lawfully exist without listed building/planning consent. Works are currently being carried out involving unlawful demolition of parts of the listed building and neither listed building nor planning consent has been applied for.

The applicant and/or owners of 7 Castlegate have made false statements in their premises licence application and have destroyed original features in their in-progress demolition of historic outbuildings and have knocked-through walls of the listed building without consent.

A pattern of behaviour of the owners has become apparent as follows:

- 1) they requested Council pre-application advice on removal of their lath and plaster ceilings on their top floor of their building. After they were told this would not be supported, they had a smouldering fire and then they completely demolished the lath and plaster ceilings and walls of their top floor against pre-application advice without listed building consent. To correct the breach they have been conditioned to replace the lath and plaster with lime and the conservation officer stated on 27th April 2021 "...But compliance is the main issue here – we need to be sure the lime plaster ceiling has been reinstated in lime, not plasterboard. Will accept photographs of the work in progress".
- 2) the owners also proceeded to commence repairs with plasterboards during the application process before any listed building consent was granted.
- 3) the owners and/or applicants have now demolished the ceilings/lime plaster/brickwork in the ground floor offshoot and knocked-through the original historic rear wall of their listed building without consent and intend to continue the process of demolishing their entire historic outbuildings in order to create a beer garden for a late night drinking establishment.

It is a criminal offence to carry out works that require listed building consent under s9 Planning (Listed Buildings and Conservation Areas) Act 1990 and an offence to do anything which causes or is likely to result in damage to a listed building under s59 of the same act.

It is also a criminal offence under s158 of the Licensing Act 2003 to make a false statement in connection with a premises licence application.

The premises plan has been prepared by BSAP, who are currently carrying out the works. BSAP are based within Ashtons Estate Agency at 5 High Petergate and Peter & Julia Docwra,

Directors of Ashtons (Peter being Managing Director), are Directors of a company in ownership of 7 Castlegate.

The premises licence application has been submitted by Hardey Ltd, a company recently set-up and incorporated on 14th April 2021.

The plan makes false representations of the site in the following ways:

- 1) The beer garden (labelled "seating area rear yard") cannot actually exist as shown in the plan without the demolition of historic outbuildings of the listed building. The area is shown below:



- 2) There are two key fire escapes not shown on the plan which would exit through the licence application area. One is the only entrance/exit from the offices above at 7b Castlegate, which are down the metal stairs (shown above) into and through the service yard. The second are the exits and rear entrances to 11a, 11b, 11c, 11d & 11e Castlegate, which are through the gate at the rear right of the service yard. This exit is used predominantly as an emergency exit/gardener's entrance for the council's leasehold flats at 11b-e and a delivery/service/emergency route to the Café store of the council-owned tea rooms at 11a Castlegate.
- 3) The public fire exit for the wine-bar unit at the rear (past the proposed toilets) is unlawful without listed building consent and involves breaking through the original historic building's rear wall into the extended area. Therefore the only lawful fire escape available actually is the front shop entrance.
- 4) Bins are shown at the rear between the two fire escape steps of 10 & 12 Coppergate. This is misleading as this land is owned by 10 Coppergate (formerly Sofa Workshop) and until recently was the loading ramp for the currently empty property's deliveries. If the owners of 10 Coppergate do not reinstate their

loading ramp, they will most certainly use their own land for their own bins when in occupation.

- 5) Bins and a scooter are actually stored along the right hand side of the yard (where the fire escape route for several properties is labelled on the proposed plan). This land is not in fact available for a fire escape route as it is legally occupied by 9 Castlegate (in accordance with deeds and registrations).
- 6) The full width of the service yard has registered easements over it in favour of 9, 9a, 9b, 11a, 11b, 11c, 11d, 11e & 6a Castlegate/10 Coppergate for things such as pallet deliveries, manoeuvring of motorcycles, cycles and commercial waste etc. There are registered rights of way to 8 Coppergate and it was historically a snickelway with 12 Coppergate also exiting through 11 Castlegate.
- 7) The licensing activities (consumption of alcohol) could not be confined to the red boundary on the plan because customers would have to navigate around from exiting underneath the fire escape of 7b, thereby standing or congregating outside of the red boundary. Similarly customers will be walking or congregating in the passage from rear to front areas looking for seating etc.
- 8) The owners have advertised in their shop window and in YorkMix's article on 7th May '21 (below) "New bar planned for York city centre – specialising in organic beers, wines and spirits" their architect's plans to install a raised balcony/roof top (beer)garden, which is at odds with the Premises Licence plan.



We urge the Licensing Authority to refuse to progress a premises licence on the basis of the misrepresentations in the submitted plan, particularly without the necessary planning and listed building consents being considered prior for the Bar/beer garden.

The Prevention of Crime and Disorder

- 1) We have seen rising crime and antisocial behaviour along Castlegate and a massive increase in drinking in the street resulting in associated problems. We experience urinating, cigarette butts, bottles/glasses left on the streets, broken glass, shouting, swearing, antisocial behaviour and drunken opportunist's crimes.
- 2) The pavement café team on 7th May 2021 have warned several pavement licence holders on Castlegate of the many complaints that have been received, by email below:

"----- Original Message -----

From: "cafelicence@york.gov.uk" <cafelicence@york.gov.uk>

To: "cafelicence@york.gov.uk" <cafelicence@york.gov.uk>

Date: 07/05/2021 11:53

Subject: Pavement Cafe Licenses

Hello,

We have been receiving a range of complaints regarding litter and public behaviour. I would like to remind you that you have an obligation to make sure that your customers are behaving appropriately and to collect any litter created.

It is key we work together to make York a great place for all and I thank you for your cooperation.

Many thanks,

The Café License Team"

Whilst pavement eating and drinking areas have been granted to minimise economic harm to existing businesses, this is very different to allowing a new business to open up a new pavement wine-bar area on an already saturated street and adding significantly to the numbers of on-street drinkers.

There are already a range of "complaints regarding... public behaviour" in this new pavement bar culture and in these emerging circumstances we would urge caution in awarding new premises licences for greater numbers of on-street drinkers in a largely residential street.

- 3) On 2nd February 2021 staff at York Cocoa Works photographed and reported youths drinking from glass bottles in the street pulling at leadwork and talking about climbing/freerunning along the projecting facades in the street whilst drunk.



4) After which they eyed-up motorcycles parked in Castlegate/Friargate and shortly after someone matching the same description attempted to steal a Piaggio Vespa () in March 2021.

5) Security risks. In 2016 squatter's broke in to the former Sofa Workshop property from the rear of the service yard, being 6a Castlegate/10 Coppergate. The break-in was reported to the Police, but they would not attend a commercial property.

There are a total of 10 doors directly into properties leading from the alleyway/service yard/snicketway. If the rear service yard becomes licenced and open to the public, the increasing crime from opportunists noted above may pose a significant problem to the services entrances and windows of the several properties adjoining.

- 6) There are also items kept in the service yard, including bins, cycles, scooters, goods, deliveries left etc and it is a real concern for attempted thefts, vandalism or simply being messed about with by opportunists.
- 7) On Friday and Saturday evenings, The Blue Boar uses the pavement areas outside the pub as well as those outside Source restaurant and across the road outside York Cocoa Works. This is already a large quantity of people drinking in the street out of glasses and glass bottles. The next morning, we find drinks partially filled left on the street outside our door and broken glass. We feel that the Coppergate end of the street can not sustain further outdoor areas without significant disorder.

Public Safety

- 1) As above, there are already significant volumes of drinkers consuming alcohol dispersed along on the street from other venues (or venues using others pavement areas) along Castlegate. As premises licences were granted before the pavement licences, only the Blue Boar has a door supervisor. However, the volume of people dispersed along the street means that the one door supervisor is unable to monitor the volumes of drinkers nor deal with arising problems.
- 2) The premises have a floor to ceiling shop display window, which would pose a danger if customers fell into it when converted into a drinking establishment.
- 3) With the two extra fire escape routes that should be shown on the plan from 7b & 11 Castlegate, there are 8 fire exits on to the service yard/alley. These are shown funnelling down the edge of the red boundary area. However, this is not actually possible due to the other property rights over the entire service yard (for motorcycles, commercial bins, deliveries etc). The fire exits would actually have to route directly through the licensed beer garden.
- 4) The ex-Sofa Workshop premises at 10 Coppergate/6a Castlegate alone has a sales area of over 4,500sqft. It also has food and drinking establishment planning use (A3/A4). When this unit becomes occupied, there is the potential for a very densely packed venue to discharge over 100 people into the service yard in the event of an emergency. Given the narrow service yard, its outbuildings that do not have demolition consent and obstacles such as motorcycles, commercial bins etc, it is essential that the centre of the small service yard is clear and unobstructed by tables and drinkers. 6a, 9, 9a/b, 11a/b/c/d/e Castlegate have registered easement rights for such purposes.

Furthermore, the alleyway door onto Castlegate is inward opening and latched so there is not a straightforward exit route and the service yard is needed as a holding area if large numbers are evacuating from 10 Coppergate/6a Castlegate.

- 5) 6a Castlegate(10 Coppergate), 9,9a,9b and 11a/b/c/d/e Castlegate have registered easement rights of road over the alley and full width of the service yard for deliveries

etc which can entail manoeuvring large pallets, stock and containers etc and residential use for bikes, scooters and bins etc. 6a Castlegate/10 Coppergate is a 4,500sqft retail premises (formerly Sofa Workshop, Cycle Republic (Halfords) and That's Entertainment), 9 Castlegate a 65 cover restaurant and the council-owned 11 Castlegate is a tea rooms and leasehold flats. The use and deliveries cannot be legally restricted from taking place (nor any access) at all times of day and reasonable times in the night. This would cause problems and dangers to the public if the beer garden is full of people and tables/chairs, particular when stocking the larger premises from the service yard. It seems unfeasible that the service yard is big enough to use as a beer garden, notwithstanding the unlikely event of the demolition of historic outbuildings being consented.

- 6) The only entrance/exit for 7b is down the metal stairs and directly into the proposed licensed area. This would cause a danger in the event of an emergency and generally for the upstairs office users to navigate between chairs, tables and drinkers.
- 7) 6a, 9,9a/b and 11a/b/c/d/e have the registered rights to ride a motorcycle during reasonable hours and 9,9a/b Castlegate has the additional registered right to pass with a motorcycle at all times of day or night. The motorcycle is ridden in and out of the yard and alley several times per day. It would present dangers to both the public and the rider if any drunk person suddenly stepped out in the service yard/"road".
- 8) For the above reasons, it seems unlikely and impractical that drinkers could be contained within the red boundary area. Customers looking for seats would freely wander along the alleyway from the rear beer garden to the front on-street pavement area and may be difficult to prevent drinkers congregating in the unlicensed areas and would certainly require 2 door supervisors, one at the front and one at the rear.
- 9) The restaurant/café unit has no kitchen nor any decent preparation area. This is of concern for effective food safety and hygiene. It would be impossible to designate areas for raw and cooked food preparation and the good practices necessary for essential food hygiene.
- 10) The proposed unit cannot be an independent unit for the preparation of food and would therefore need to rely on regular deliveries. However, Castlegate is a pedestrianised zone from 10.30am to 8pm. Access is permitted up Friargate & out along Castlegate towards Coppergate, however increased traffic through this route would cause dangers to the public in the pedestrianised street and those sat on licensed pavement areas.

The Prevention of Public Nuisance

- 1) In the planning decision notice for 10 Coppergate/6a Castlegate of 14th July 2010 relating to the area of the service yard owned by those premises, conditions were attached as follows:

"7 The rear outdoor area shall not be used by patrons of the premises after 22:00 each day of the week.

Reason: To protect the amenity of nearby residents.

8 Bottles shall not be emptied into any external bins between the hours of 21:00 and 09:00.

Reason: To protect the amenity of nearby residents."

Even in the event that demolition of the listed building's outbuildings is allowed, in the absence of 7 Castlegate not being subject to planning controls in the new regime, we submit that Licence conditions should impose the necessary controls above for the prevention of nuisance.

- 2) Noise emanating from outdoor areas has created a nuisance in Castlegate in the past. The licence application for the Blue Boar in 2012 asserted that after 9pm, drinking would be restricted in the outdoor smoking yard and no more than ten customers would be allowed there at a time. However, in the granted licence CYC-020403 the Licensing Authority decided that restrictions should go further – the yard is to be used only to store bins and secured at all times and not to be used for smoking.

This is a very similar scenario for the premises application for 7 Castlegate. The service/bin yard is part of a high sided quadrangle of 8 residential flats. Any beer garden created in this area will create noise that will reverberate around the high buildings.

Given the previous problems in a similar neighbouring built environment, we ask that the service/bin/access yard is not used for drinkers or smokers.

- 3) The Use Class of 7 Castlegate includes café/restaurant use, but not wine bar or drinking establishment. Any use as a late night (1am/2am) Bar would cause an unacceptable nuisance to all residents nearby. The restaurant Burgsy's at 9 Castlegate has last orders at 9pm. The Blue Boar, Pairings and No3 are quiet and closing around 11pm. It would be overly late and too close to the residential homes on Castlegate for the premises to operate beyond what a legitimate café of restaurant would.
- 4) We have concerns that the proposed use as a late night (recorded entertainment) Bar is too far away from the legitimate use of any café/restaurant and would cause undue nuisance:

- No kitchen facilities (only a 'Bar' and 'Store' shown on premises plan)
 - Late night application submitted for selling alcohol up to 1am or 2am which would be outside of legitimate café/restaurant eating times.
 - Application for recorded music to be played late at night until 1am or 2am is beyond how a legitimate café/restaurant would operate).
 - Recent planning approval 20/01860/FUL appears a ruse for the actual building work which is in progress and the intended use as a late night Drinking Establishment with only little food/snacks.
 - § (Castlegate owner) approached the owner of Burgsy's restaurant informing them that 7 Castlegate was going to be "Wine Bar" with the potential of their customers who want to eat ordering take-out burgers from Burgsy's. However, Burgsy's kitchen closes at 9pm. This indicates that 7 Castlegate is not intended to be self-sufficient as a café or restaurant but to predominantly be a Bar.
 - YorkMix reporting "New bar planned for York city centre – specialising in organic beers, wines and spirits", rather than the permitted use of a café/restaurant.
- 5) There is an assurance in the application that "doors and windows will be closed by 23:00 hours to reduce noise pollution". However, we doubt the feasibility of operating a busy late night Bar for several hours after this with no air flow or air conditioning. In the listed building consent decided 19th October 2020 (20/01861/LBC), air conditioning units were at odds with the historic character of the building and no acceptable positions could be found for these nor heat pumps that would not have a harmful impact on the listed building. Hence no air conditioning is possible and the applicant is reliant on opening doors and windows for ventilation.

Without any air conditioning in a busy premises, we are not assured that doors and windows can remain closed as asserted. The doors in this instance would be opened and closed more frequently as customers seek to come out for fresh air. Music and chatting will be heard in any event when the door is opened to pass through.

Furthermore, there are no assurances in the application that the outdoor areas would be unoccupied after 23:00. Closing doors and windows will not minimise that noise from drinkers enjoying themselves in the beer garden or on the pavement area late at night.

- 6) Neighbouring properties are all listed buildings and as such have single glazed windows which cannot be acoustically sealed to modern standards. Additionally, residents are reliant on opening original sash windows for ventilation. Noise, particularly at the rear, would mean that there are no rooms which would be quiet from noise generated late at night.
- 7) There is an elderly person in her 80th years residing with us. She goes to bed early and takes comfort that even in the city centre when the street is noisy until 11pm whilst watching TV in the lounge, she has some quiet in her room at the rear of the

property. If an alcohol/entertainment licence is granted, particular on-street and at the rear beer garden until, 1am/2am, it would cause her incredible harm and suffering. We urge the Licensing Authority to take account of the deterioration in health of elderly residents that a late night venue would have, particularly with outdoor licensed areas.

The Protection of Children from Harm

- 1) The alleyway and service yard is used by several neighbouring properties for deliveries, access and exit and the alley door is regularly opening and closing. This makes it very easy for children to access the beer garden without entering through the venue. This might result in children obtaining alcohol without staff being aware. Even in the event of a door supervisor condition, it will be very difficult to supervise the three separate areas of rear beer garden, internal bar and pavement areas without the need for 2 door supervisors, one at the front and one at the rear.
- 2) Due to the service yard being used for deliveries (including large items and pallets etc) and the riding of motorcycles, if children are admitted to the proposed beer garden, they would be at increased risk due to not being as aware or vigilant as adults to the commercial operations in the service yard.
- 3) York Cocoa Works is a tourist attraction directly opposite 7 Castlegate. It attracts groups of school children, of the order of 30-40 in number. The alley door between 7 & 9 Castlegate leading to the proposed beer garden is a historic hidden snickelway. Given the hazards in the active commercial service yard, a beer garden open to the public when the alley gate is open would present an enticement for children to explore but would put children at risk of dangers.

Loss of planning controls/largely residential area

Amendments to the Planning Use Classes Order came into force on 1st September 2020. This created a new Use Class E encompassing "commercial, business and service", reclassifying all shops, financial & professional services, offices, light industrial, medical/health services, indoor sport/fitness, creches and cafe/restaurant etc uses into the one new Use Class E.

Any of the above properties can now change use, without the need for planning permission, to the following:

"E(b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises"

Due to the loss of planning controls on creating new eating & drinking establishments in virtually any commercial property means that the Premises Licence Application process is now the only control that can balance and protect an area from the cumulative effect of too

many drinking and entertainment establishments that will cause harm (especially late at night).

The licensing objectives provide the framework for licensing law and we would urge the Licensing Authority to apply the appropriate increased weighting to the cumulative effect of more premises applying for licences for alcohol & amplified entertainment in the new automatic planning regime, when implementing the licensing principles for new licences. It seems right for licence applications to be assessed more strictly in the new planning regime.

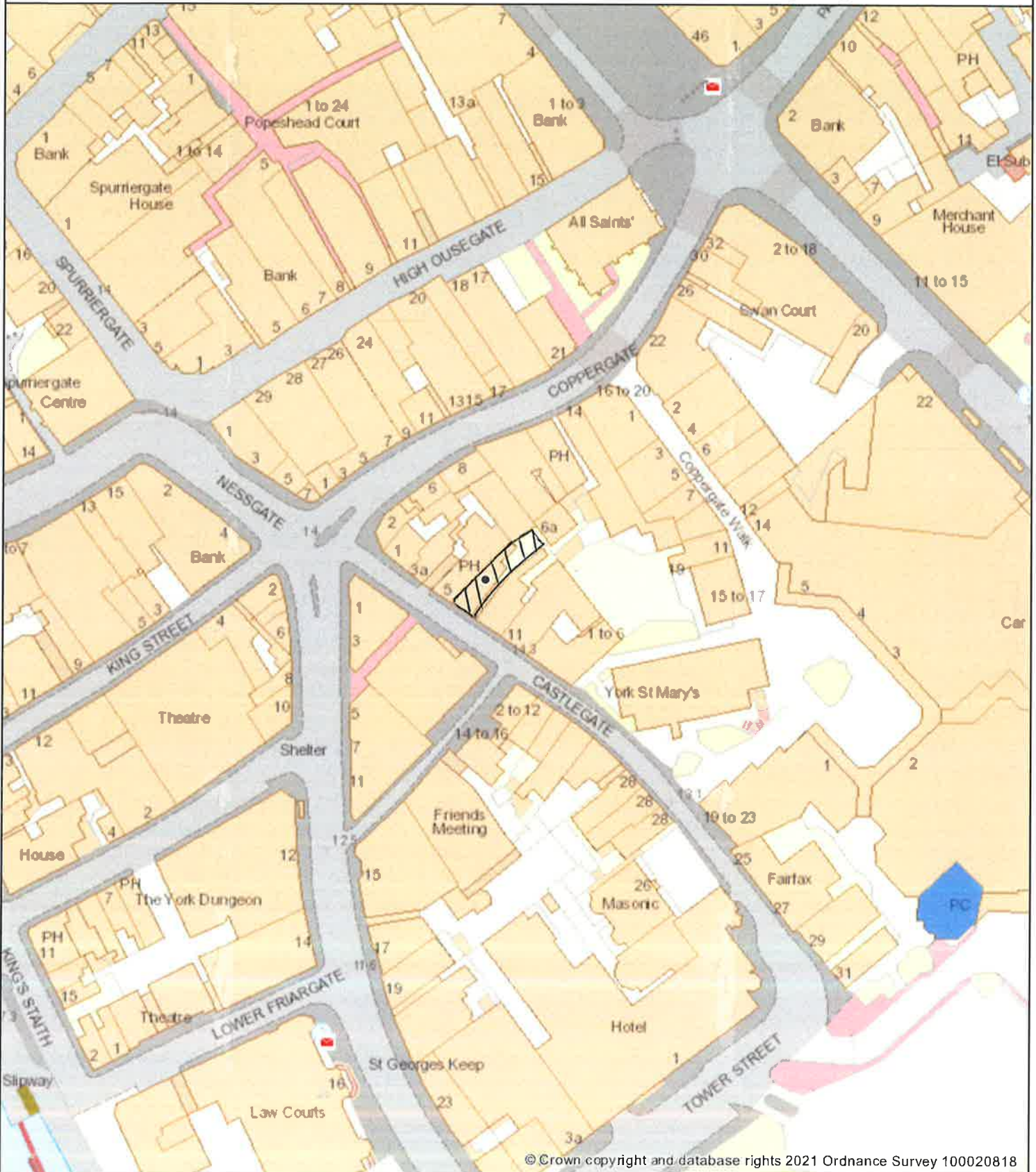
Castlegate is largely a residential street and there are 70 residences in the vicinity of 7 Castlegate - 23 flats directly opposite fronting either Castlegate or the alleys diagonally opposite, 8 circumscribing the high sided rear quadrangle and the remaining residential in proximity listed below. The effect of an extra Bar (with significant increase of on-street and outside covers) on the residences in an area that has already suffered several problems is of great concern and we would like to object in strong terms to the ex art/e-cig shop at 7 Castlegate being granted an alcohol/entertainment licence at all.

14th May 2021

Residences in the vicinity of 7 Castlegate:

Flat 1,2,3,4 Gaultres Chambers, 4 Coppergate, York, YO1 9NR
3a Castlegate, York, YO1 9RN
Flat above Blue Boar, 5 Castlegate, York, YO1 9RN
(Flat at back of Three Tons/11's garden) 12 Coppergate, York,
9A,9B Castlegate, York, YO1 9RN
Flats 1-26, Castle Chambers, 5 Clifford Street, YO1 9RG
11B,11C,11D,11E Castlegate, York, YO1 9RN
(Rear of 11's garden) Flat 1,2,3, 19 Coppergate Walk, York, YO1 9NT
1,2,3,4,5,6 Gloucester House, Castlegate, York, YO1 9RN
Friargate House, 12, Castlegate, YO1 9RL
14 Castlegate, York, YO1 9RP
16 Castlegate, York, YO1 9RP
14 Friargate, York, YO1 9RL
16 Friargate, York, YO1 9RL
Flat 3-5 Coppergate Walk
Flat 1,2,3,4,5, 12 Coppergate Walk, York, YO1 9NT
1-10 St Georges House, 23 Castlegate, York, YO1 9RN
Flat, Castlegate House, Castlegate, York, YO1 9RP

Map of area

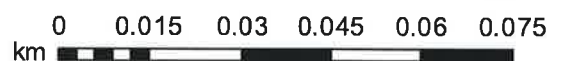


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Date: 12 May 2021

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**MANDATORY & PROHIBITED CONDITIONS – PREMISES LICENCE
LICENSING ACT 2003**

MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
 - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
 - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to –
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –
- (a) a holographic mark, or
 - (b) an ultraviolet feature.

7. The responsible person must ensure that –
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
 - (iii) still wine in a glass: 125ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

MANDATORY CONDITION: ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 –
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - (b) “permitted price” is the price found by applying the formula –
$$P = D + (D \times V)$$
where –
 - (i) P is the permitted price,
 - (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7).
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -
 - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed -
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to -
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section -
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

MANDATORY CONDITION: EXHIBITION OF FILMS

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where -
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

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Legislation and Policy Considerations

1. The following provisions of The Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s17 application for premises licence; s18 determination of application for premises licence; s23 grant or rejection of application; ss19, 20 and 21 mandatory conditions; The Licensing Act (Mandatory Licensing Conditions) Order 2010; and The Licensing Act 2003 (Mandatory Conditions) Order 2014.
2. The following provisions of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 apply to this application: Regulation 42, Part 2 (Premises licences) and Part 4 (General) relating to applications, notices and representations and advertisement of applications
3. The following provisions of the Secretary of State's guidance apply to this application: Section 2 The Licensing Objectives; Section 9 Determining applications; Section 10 Conditions attached to premises licences and club certificates; and Section 14 Statements of licensing policy.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 5.0 Applications for Premises Licences, Club Premises Certificates and Variations; 6.0 Guidelines for Applicants; 7.0 Saturation and Cumulative Impact and 8.0 Licensing Hours.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

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